
SENATE BILL 5896

State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, McCaslin, Kohl, Oke, Schow, Kline, Zarelli, Goings, Hargrove and Stevens

Read first time 02/18/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to the civil rights act of 1997; adding a new
2 chapter to Title 7 RCW; and declaring an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** This chapter may be known and cited as the
5 Washington state civil rights act of 1997.

6 NEW SECTION. **Sec. 2.** (1) The legislature recognizes that all
7 political power is inherent in the people, and governments derive their
8 just powers from the consent of the governed, and are established to
9 protect and maintain individual rights; and that a frequent recurrence
10 to fundamental principles is essential to the security of individual
11 right and the perpetuity of free government.

12 (2) The legislature declares that it is a fundamental principle
13 that the state Constitution embodies public policy of the highest order
14 and priority; that it is a compelling interest of the state of
15 Washington to ensure that the provisions of the state Constitution are
16 guaranteed and enforced in order to protect and maintain the liberties
17 and individual rights of the people of the state of Washington; that
18 the people of the state of Washington should be able to rely primarily

1 upon the state Constitution for the protection of their liberties and
2 individual rights; and that it is a legitimate exercise of the police
3 power of the state of Washington to preserve the public peace, health,
4 morals, and safety of the people of the state of Washington by
5 establishing an enforcement mechanism for redress for violations of the
6 state Constitution.

7 NEW SECTION. **Sec. 3.** (1) Every governmental entity that, under
8 color of a statute, ordinance, regulation, custom, or usage, subjects
9 or causes to be subjected, a citizen, inhabitant, or domiciliary of the
10 state of Washington to the deprivation of any rights, privileges, or
11 immunities secured by the Constitution of the state of Washington, is
12 liable to the party injured in an action at law, suit in equity, or
13 other proper proceeding for the redress.

14 (2) A person deeming himself or herself injured by any act in
15 violation of this chapter may recover all damages sustained including,
16 but not limited to, damages or remedies made available under the Civil
17 Rights Act of 1871; 42 U.S.C. Sec. 1983.

18 (3) It is the intent of the legislature that persons who are
19 injured by a violation of the state Constitution are eligible for
20 redress, that future violations of the state Constitution be deterred
21 thereby, and that this statute be construed liberally for the
22 accomplishment of its declared purpose in this chapter. Nothing
23 contained in this chapter shall be construed to deny the right of a
24 person to institute an action or pursue any civil or criminal remedy
25 based upon an alleged violation of his or her civil rights.

26 NEW SECTION. **Sec. 4.** (1) For purposes of this chapter,
27 "governmental entity" means any federal, state, or local government.

28 (2) For the purpose of this chapter, a governmental entity is
29 liable for the act of an agency, instrumentality, officer, or employee
30 done under color of a statute, ordinance, regulation, custom, or usage.

31 (3) For the purpose of this chapter, an officer, employee, or agent
32 of a governmental entity is liable only to the extent that he or she
33 acts under color of a statute, ordinance, regulation, custom, or usage.

34 NEW SECTION. **Sec. 5.** In an action or proceeding to enforce a
35 provision of this chapter:

1 (1) Attorneys' fees must be awarded to the prevailing plaintiff
2 unless special circumstances exist to render such an award unjust.

3 (2) Attorneys' fees may be awarded to the prevailing defendant only
4 where the underlying claim is frivolous or totally without merit.

5 (3) The prevailing party may recover any and all costs, including
6 but not limited to, expert witness fees and those recoverable under RCW
7 49.60.030(2).

8 NEW SECTION. **Sec. 6.** In an action or proceeding to enforce a
9 provision of this chapter, a court may not impose or levy as a remedy
10 or otherwise a general or special tax, assessment, fee, toll, charge,
11 or other monetary obligation on the citizens of the state of
12 Washington.

13 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
14 a new chapter in Title 7 RCW.

15 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
16 preservation of the public peace, health, morals, or safety, or support
17 of the state government and its existing public institutions, and takes
18 effect immediately.

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